

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

September 22, 1999

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., and Connie Hon, Deputy Clerk.

Each of the following:

B111428/B115353 A & K Medical Supply, Inc. v. Simonian
B127974 Zaharoni v. Avakemian
B128202 Baber v. Lawrence

Argument waived, cause submitted.

B125682 The People
 v.
 Brashawn L.

Merits:

Argued by Susan S. Kim, deputy attorney general, for respondent and by Margaret E. Dunk for appellant. Cause submitted.

B126421 Jensen
 v.
 Hool et al.

Merits:

Argued by Norman Schafler for appellant and by Nathan B. Hoffman for respondents. Cause submitted.

DIVISION ONE (Continued)

B107553 Baptiste
 v.
 Independent Living Center Of Southern California, Inc., et al.

Merits:
Argued by James V. Jordan for appellant and by Terry R. Menefee for respondents (Independent Living Center of Southern California, Inc. et al.) and Amber A. Logan for respondent (County of Los Angeles). Cause submitted.

B118926 Marcus
 v.
 Bornstein

Merits:
Argued by Philip R. Blustein for appellant and by Sasha Marcus respondent in pro per. Cause submitted.

B124986 Inglewood Committee To Save Market Street et al.
 v.
 City of Inglewood et al.

Merits:
Argued by Lawrence Teeter for appellants and by R. Bruce Tepper for respondents. Cause submitted.

B128091 Horwitz et al.
 v.
 Datametrics Corporation

Merits:
Argued by John M. Moscarino for appellant and by Michael J. Faber for respondents. Cause submitted.

DIVISION ONE (Continued)

B127431 Green
v.
Enterprise Security Patrol et al.

Merits:
Argued by Manny Ibay for appellant and by Jennifer Hegemier for respondents. Cause submitted.

B129644 Verdugo
v.
Aramark Uniform Services, Inc.

Merits:
Argued by George J. Hernandez, Jr. for respondent and no appearance for appellant. Cause submitted.

Court adjourned.

B125012 Balalian (Not for Publication)
v.
Callender et al.

We affirm the summary judgment and award defendants their costs.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B120775 People (Not for Publication)
v.
Stewart

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

September 22, 1999-Continued

DIVISION ONE (Continued)

B125757 People (Not for Publication)
v.
Roberson

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B122678 People (Not for Publication)
v.
Davis

The judgment of conviction is affirmed, the finding that Davis's juvenile adjudication is a strike is reversed, and the cause is remanded to the trial court for resentencing.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B127974 Zaharoni et al. (Not for Publication)
v.
Avakemian

The entry of default and the default judgment are reversed, and the cause is remanded to the trial court with directions to dismiss the complaint. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

DIVISION ONE (Continued)

B125111 The People (Not for Publication)
v.
Williams

The judgment is affirmed and the cause is remanded to the trial court with directions to issue a corrected abstract of judgment to reflect the \$50 laboratory fee (Health & Saf. Code, § 11372.5) and the \$500 restitution fine (Pen. Code, § 1202.4) that were imposed at the time of sentencing but which were inadvertently omitted from the abstract of judgment.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B126883 The People (Not for Publication)
v.
Wright

The judgment is affirmed and the cause is remanded to the trial court with directions to issue a corrected abstract of judgment reflecting the \$50 laboratory analysis fee that Wright was ordered to pay.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B128115 People (Not for Publication)
v.
Johnson

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

DIVISION ONE (Continued)

B127790 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Danny C.

We affirm the order.

Ortega, J.

We concur: Spencer, P.J.
 Vogel (Miriam A.), J.

DIVISION TWO

B125178 Certain Underwriters at Lloyd's (Certified for Publication)
 v.
 Western Pacific Roofing Corporation

The judgment against the Underwriters is reversed. Appellant to recover costs on appeal.

Zebrowski, J.

We concur: Boren, P.J.
 Mallano, J. (Assigned)

B122423 Uni-West Aviation, Inc., et al. (Not for Publication)
 v.
 Robinson Helicopter Company, Inc., et al.

The judgment is affirmed. Costs to respondent.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

DIVISION TWO (Continued)

B123503 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Christina C.

The orders appealed from are affirmed.

Zebrowski, J.

We concur: Boren, P.J.
 Mallano, J. (Assigned)

B122680 People (Not for Publication)
 v.
 Marias

The judgment is affirmed.

Zebrowski, J.

We concur: Boren, P.J.
 Mallano, J. (Assigned)

B125465 People (Not for Publication)
 v.
 Dovalina

The Court:

The judgment is modified to reflect imposition of a \$200 parole revocation fine pursuant to section 1202.45, and the abstract of judgment is to be amended to reflect this fine. In all other respects, the judgment is affirmed.

Boren, P.J., Zebrowski, J., Mallano, J. (Assigned)

DIVISION TWO (Continued)

B129264 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Kathleen S.

The judgment is affirmed.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

DIVISION THREE

B119054 People (Certified for Partial Publication)
 v.
 Moore

The judgment is modified as follows: the conviction on count 3 for carjacking is vacated; the convictions on counts 4 and 5 for simple kidnapping are vacated; one of the section 667, subdivision (a), enhancements is vacated. In addition, Moore is to be credited with an additional three days of actual presentence custody. As modified, the judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment accordingly.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B124848 People (Not for Publication)
 v.
 Rodriguez

The judgment is reversed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

September 22, 1999-Continued

DIVISION FOUR

[illegible]

For the foregoing reasons, the judgment is modified to impose and suspend a fine in the sum of \$10,000 pursuant to Penal Code section 1202.45, and to grant appellant a total of 326 days of presentence custody credits.

The trial court is directed to prepare an amended abstract of judgment reflecting these modifications and to forward it to the Department of Corrections.

As modified, the judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B125230 Husanu (Not for Publication)
v.
Harbro, Inc.

The judgment is affirmed. Costs on appeal are awarded to respondent.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

B129409 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Lynda H.

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

September 22, 1999-Continued

DIVISION FOUR (Continued)

B133070 Mabel M. (Not for Publication)

V.

Superior Court, Los Angeles County

(Los Angeles Co. Dept. of Children and Family Services, et al.,)

The petition is denied. The order issued July 28, 1999, staying the section 366.26 hearing set for September 14, 1999, is hereby dissolved.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Curry, J.

B125169 People (Certified for Publication)

V.

Rowland

The judgment is reversed and the matter remanded for a new trial.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Curry, J.

B118390 People (Not for Publication)

V.

Reliford

The judgment is reversed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Curry, J.

DIVISION FOUR (Continued)

B124138 People v. Pfefer (Not for Publication)

The judgment is modified to include an additional restitution fine of \$200 which shall remain suspended unless and until defendant violates parole, pursuant to Penal Code section 1202.45, a \$50 state penalty assessment pursuant to Penal Code section 1464, and a \$35 county penalty assessment pursuant to Government Code section 76000. As so modified, the judgment is affirmed. The clerk of the superior court is directed to prepare and send to the Department of Corrections a corrected abstract of judgment.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Curry, J.

DIVISION FIVE

B125497 Sanford Small (Not for Publication)
v.
Norman Brill et al.

The order rejecting appellants' participation in the class action settlement is affirmed. Respondents to recover their costs on appeal.

Godoy Perez, J.

We concur: Grignon, Acting P.J.
Armstrong, J.

September 22, 1999-Continued

DIVISION FIVE (Continued)

B132270 Irma L. (Not for Publication)
v.
Superior Court of Los Angeles
D.C.F.S., r.p.i.

The petition for writ of mandate is denied.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

B092772 Robert S. Stone (Not for Publication)
v.
Edmond R. Davis etc., et al.

The judgment is reversed. Appellant Stone to recover his costs on appeal.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

B133943 Robert M. Orozco (Not for Publication)
v.
Superior Court, Los Angeles County
(Exxon Corporation, r.p.i.)

Petition for writ of mandate denied. Respondent to recover costs.

Godoy Perez, J.

I concur: Grignon, Acting P.J. (Opinion)
I dissent: Turner, P.J. (Opinion)

September 22, 1999-Continued

DIVISION SIX

[illegible]

The judgment is affirmed.

Matz, J. (Assigned)

We concur: Gilbert, Acting P.J.
 Yegan, J.

DIVISION SEVEN

B125829 People (Not for Publication)
v.
Resendez

The judgment is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Neal, J.

B129366 People (Not for Publication)
v.
Michael C.
In re Michael C.

The order under review is modified to grant the minor 60 days of credit against his theoretical maximum period of confinement. As modified, the order is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Neal, J.

DIVISION SEVEN (Continued)

B129394 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Jose O.
In re Maria O.

The order under review is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Neal, J.

B125875 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Daniel R. and Yolanda R.
In re Andrea R.

The September 15, 1998, order is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.

B125902 Amelco Corporation (Not for Publication)
v.
Affiliated FM Ins. Company

The judgment is affirmed. Respondent to recover its costs on appeal.

Lillie, P.J.

I concur: Neal, J.
I dissent: Johnson, J. (Opinion)

DIVISION SEVEN (Continued)

B128436 Rasmussen et al. (Not for Publication)
 v.
 Fireman's Fund Ins. Company

The judgment is affirmed. Respondent is entitled to costs on appeal.

Lillie, P.J.

We concur: Woods, J.
 Neal, J.

B123676 Sigelman (Not for Publication)
 v.
 Penuela et al.

The appeal is dismissed. Respondent is entitled to costs on appeal.

Lillie, P.J.

We concur: Woods, J.
 Neal, J.

B125429 People
 v.
 Anthony R.
 In re Anthony R.

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)